

REMARKS

I. INTRODUCTION

Claims 1, 3-12, 14-18, 21-34, 36, and 41 -62 are pending. Claims 1, 18, 27, 41, 46, 48, 53, 54, 56, and 59 are independent claims. No claims are canceled or amended herein.

In the Office Action, claims 27, 32-34, 36, 46, 47, 54, and 59-61 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent Number 6,035,020 (“Weinstein”). Claims 1, 3-7, 9-12, 15, 17, 18, 21-26, 28-30, 41-45, 56, and 58 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Weinstein in view of United States Patent No. 5,692,043 (“Gliga”). Claim 8 was rejected under Section 103 as allegedly unpatentable over Weinstein and Gliga and further in view of United States Patent No. 5,085,913 (“Wong”). Claims 14 and 53 were rejected under Section 103 as allegedly unpatentable over Weinstein and Gliga and further in view of United States Patent No. 6,083,280 (“Eitel”). Claims 16 and 57 were rejected under Section 103 as allegedly unpatentable over Weinstein in view of Gliga and United States Patent No. 6,480,487 (Wegleitner). Claims 31 and 55 were rejected as obvious over Weinstein in view of Wegleitner. Claims 48, 51, 52, and 62 were rejected under Section 103 as allegedly unpatentable over Weinstein in view of U.S. Patent No. 6,163,599 (McHale). Claims 49 and 50 were rejected under Section 103 as allegedly unpatentable over Weinstein in view of Gliga and Wegleitner.

In view of the following arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action.¹ Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2).

¹ As Applicant’s remarks with respect to the Examiner’s rejections are sufficient to overcome the present rejections, Applicant’s silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future. Further, Applicants do not necessarily agree with or acquiesce to the Examiner’s characterizations of the scope and meaning of their claims.

Inasmuch as the claim rejections in the present Office Action, dated October 22, 2009, are substantially identical to the claim rejections, and the reasoning, set forth in the immediately preceding Office Action (dated April 3, 2009; hereinafter, "Prior Response"), Applicants' arguments included in Applicants' paper dated June 17, 2009, are all incorporated herein by reference. Further set forth below are Applicants' replies to the Examiner's "Response to Arguments" set forth beginning at page 19 of the pending Office Action.

II. SECTION 102 REJECTIONS

Claims 27, 32-34, 36, 46, 47, 54, and 59-61 were rejected as allegedly anticipated by Weinstein.

A. Independent Claim 27

Independent claim 27 recites in part "scanning said local link at said switch associated with said line unit to provide monitoring of said signal." As argued at pages 13-14 of the Prior Response, Weinstein does not teach or suggest at least the foregoing recitation of claim 27 because Weinstein discloses at most connecting devices from within a customer premises to a subscriber line at the customer location when a call is presented for switching, and does not perform any "scanning." The Examiner responded that Weinstein's switch 120 "acts as a scanning device since it selectively connects either PC 122 or other devices 121 from the local link . . . for monitoring." (Office Action, page 19.) However, Applicants respectfully submit that the Examiner's argument is flawed at least because, even if mere "monitoring" would read on the "scanning" recited in claim 27, Weinstein does not even disclose any monitoring. For at least this reason, the rejection of claim 27 should be withdrawn.

Further, the Examiner contended that Weinstein's "switch 120 reads on a 'scanning device' since it performs the function of the scanning device that is claimed, which is to connect either PC 122 or other devices from the local link to the detector." (Office Action, pages 19-20.) However, claim 27 does not recite "a scanning device," at all. Moreover, even if Weinstein's switch 120 performs the function of connecting computers or other devices in a customer premises to a local link, and even if claim 27 recites a switch that performs a similar function, such similarity between Weinstein's switch 120, and the "switch" recited in claim 27, is irrelevant to the requirements in claim 27 of "scanning said local link at said switch associated with said line unit to provide

monitoring of said signal.” As discussed above, and in the Prior Response, Weinstein does not teach or suggest any device, or any function, related to the “a scanning” recited in claim 27.

Therefore, for least this further reason, claims 27, and all claims depending therefrom, are allowable over Weinstein.

B. Claim 46

1. “the switch further configured for scanning . . .”

Claim 46 recites in part “a switch for connection to the local link, the switch comprising a first port for a narrowband communication and a second port for connection to the broadband data network; the switch further configured for scanning each of a set of local links.” As argued at pages 14-15 of the Prior Response, Weinstein does not teach or suggest at least the foregoing recitation of claim 46, and moreover, the Examiner failed to state a *prima facie* case of anticipation with respect to claim 46. In the Office Action, the Examiner responded simply by repeating arguments that Weinstein’s switch 120 “acts as a scanning device.” (Office Action, page 20.) Without any basis, the Examiner stated that “voice/data switch 130 works with switch 122 scan the local link to determine whether PC 122 or other devices 121 needs access to the network, and which network (and narrowband or broadband) that it needs.” (Office Action, page 20.) The Examiner then “referr[ed] to the argument for claim 27.” However, as stated in the Prior Response, there is no teaching or suggestion that Weinstein’s switch 130 was or could have been configured to perform any “scanning.” In fact, as argued above concerning claim 27, Applicants respectfully submit that the Examiner has improperly conflated switches that connect devices to a network with performing “scanning.” Certainly, Weinstein does not teach or suggest “scanning each of a set of local links” as recited in claim 27, nor has the Examiner identified any “set of local links” allegedly taught or suggested by Weinstein. Therefore, for at least these reasons, the rejection of claim 46, and claim 47 depending therefrom, should be withdrawn.

2. “the switch further comprising a controller for controlling the scanning”

Claim 46 further recites “the switch further comprising a controller for controlling the scanning.” In response to Applicants’ argument that Weinstein does not teach or suggest the recited controller (Prior Response, page 15), the Examiner responded that “[t]he controller is switch 120 since it is connected to voice/data switch 130 and performs scanning.” (Office Action, page 20.) As

amply discussed above, Weinstein's switch 120 does not in fact perform any scanning. Moreover, Weinstein does not teach or suggest any element "comprising a controller for controlling the scanning." For at least this further reason, the rejection of claim 46, and claim 47 depending therefrom, should be withdrawn.

C. Claim 54

1. "a request for a communication path to a destination"

Claim 54 recites in part "receiving, from a customer premises terminal a local link to a line unit and telephone network switch in a switched telephone network, a request for a communication path to a destination." As argued in the Prior Response (page 16), the Examiner did not identify any specific element in Weinstein that allegedly reads on the recited "request for a communication path to a destination." Further, Weinstein does not teach or suggest the recited "request for a communication path to a destination." The Examiner responded by asserting that "subscribers send a request for a communication path by dialing a telephone number of a destination." (Office Action, pages 21-22.) Thus, the Examiner has now evidently taken Official Notice that the recited "request for a communication path to a destination" occurs when a telephone number is dialed. Accordingly, the Examiner is respectfully requested to provide support in a reference of record for the Official Notice in the next Office Action as required by 37 CFR 1.104(d)(2). At least because no reference of record teaches or suggests the recited "request for a communication path to destination" the rejection of claim 54, and also of claim 55 depending therefrom, must be withdrawn.

Further, claim 54 specifically recites that the request is received that "from a customer premises terminal a local link to a line unit and telephone network switch in a switched telephone network." The Examiner has yet to address any of these elements, or to show that they are taught or suggested in Weinstein. The Rejections of claims 54 and 55 must be withdrawn for at least this further reason.

2. "controlling a scanning device to selectively connect a detector to said local link, wherein the scanning device and detector are associated with said line unit"

Claim 54 further recites in part "controlling a scanning device to selectively connect a detector to said local link, wherein the scanning device and detector are associated with said line unit." However, Weinstein does not teach or suggest the foregoing recitation of claim 54 at least for

the reasons set forth above, and in the Prior Response, concerning claims 27 and 46. Therefore, the rejection of claim 54, and also of claim 55 depending therefrom, must be withdrawn.

D. Claim 59

Claim 59 was rejected as anticipated by Weinstein on grounds similar to those set forth for claim 27. (Office Action page 6.) Therefore, even though claims 27 and 59 differ in scope, claim 59 and the claims depending therefrom are patentable over the cited references at least for the reasons set forth above, and in the Prior Response, concerning claim 27.

III. SECTION 103 REJECTIONS

A. Claim 1

1. “scanning said local link . . .”

Claim 1 was rejected as allegedly obvious over the combination of Weinstein and Gliga. Claim 1 recites in part “controlling a scanning device to selectively connect a detector to said local link, wherein the scanning device and detector are associated with said line unit.” The Examiner contended that Weinstein read on the foregoing recitation of claim 1. However, for at least the reasons stated above and in the Prior Response concerning claims 27 and 46, Weinstein fails to teach any “scanning,” and the rejection of claim 1 must be withdrawn for at least this reason.

Further, the Examiner contended that “DTMF receiver 123 and prefix recognizer 125 in combination read on the detector.” (Office Action, page 21.) However, Applicants respectfully note that the Examiner simply failed to address Applicants’ argument (Prior Response, page 17) that the DTMF receiver and the data call prefixer merely isolate the dialing prefix. As such, Weinstein’s DTMF receiver and prefix recognizer do not perform any operations of a “detector, and do not read on the recited “detector.” The Examiner simply contended that Weinstein’s subscriber line 110 reads on the recited a local link, and that Weinstein's switch 120 is a scanning device that selectively connects a detector to said local link. The rejection of claim 1 must be withdrawn at least because the combination of Weinstein and Gliga does not teach or suggest any of “a scanning device,” “a detector,” or “a local link,” much less that “the scanning device and detector are associated with said line unit.”

2. “responsive to said determination, connecting said communication path from said concentrator network through a portion of said line unit . . .”

Claim 1 further recites in part “establishing a communication path from said local link through a concentrator network in said line unit,” “determining based on said data sequence that said request does not seek conversion in said line unit,” and “responsive to said determination, connecting said communication path from said concentrator network through a portion of said line unit around a converter in said line unit to a wide band data switch connected to a data network.” The Examiner evidently now contends (Office Action, page 22) that Weinstein somehow discloses all of the elements in the foregoing recitations of claim 1, except that Weinstein “just do[es] not disclose a concentrator network and said line unit,” which is allegedly disclosed by Gliga. Thus, the Examiner has admitted that none of the cited references teach or suggest “connecting said communication path from said concentrator network through a portion of said line unit.” Even under *KSR Int’l. Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007), the Examiner must show that the cited references taken together disclose all of Applicants’ claim recitations, and also that there would have been some reason to combine the references, which the Examiner has not done.

The Examiner has not shown, or even alleged, that the cited references taken together disclose all of Applicants’ claim recitations because the Examiner has alleged at most that a first reference, Weinstein, teaches connecting said communication path through a portion of said line unit, and that a second reference, Gliga, teaches doing so through a concentrator network. Even if the Examiner’s allegations concerning the teachings of Weinstein and Gliga are correct, these allegations do not amount to “connecting said communication path from said concentrator network through a portion of said line unit.” Further, the Examiner alleged that “concentration is a form of economic switch design that provides only enough cross points to support a certain number of subscribers requiring service, which reduces system cost.” (Office Action, page 22.) The Examiner did not provide any reason why one of ordinary skill would have used a “concentrator network” in the context of Applicants’ claim, e.g., “responsive to said determination, connecting said communication path from said concentrator network through a portion of said line unit around a converter in said line unit to a wide band data switch connected to a data network.”

For least foregoing reasons, the rejection of claim 1, and all claims depending therefrom, must be withdrawn.

B. Claim 18

Claim 18 was rejected over Weinstein and Gliga on grounds similar to those set forth for claim 1. Therefore, even though claims 1 and 18 differ in scope, claim 18 and its dependent claims are patentable over the cited references at least for the reasons set forth above, and in the Prior Response, concerning claim 1.

C. Claim 41

Claim 41 was rejected over Weinstein and Gliga on grounds similar to those set forth for claim 1. For reasons similar to those stated above concerning claim 1, claim 41, and all claims depending therefrom, are patentable over the cited references. Further, claim 41 and its dependent claims are patentable over Weinstein for the following additional independent reasons.

1. “a scanning device that is configured to sequentially connect to at least one of said plurality of local links”

Claim 41 recites in part “a scanning device that is configured to sequentially connect to at least one of said plurality of local links.” Weinstein does not teach or suggest “a scanning device,” as stated above and in the Prior Response, and therefore for at least this reason does not teach or suggest “a scanning device that is configured to sequentially connect to at least one of said plurality of local links.”

Further, the Examiner now states that Gliga is relied on “to teach the benefits of using a plurality of local links.” (Office Action, page 23.) However, claim 41 recites “a scanning device that is configured to sequentially connect to at least one of said plurality of local links.” The Examiner has entirely failed to address the recitation that the scanning device sequentially connects to at least one local link. Nor does sequentially connecting “to at least one of said plurality of local links” taught or suggested by either Weinstein or Gliga. For at least this further reason, the rejection of claim 41, and the claims depending therefrom, must be withdrawn.

2. “a monitor in communication with said scanning device, wherein the monitor . . . generate[s] an output signal to said concentrator network to cause said concentrator network to provide a connection to said port”

Claim 41 further recites in part “a monitor in communication with said scanning device, wherein the monitor is configured to, upon detecting a pre-designated signal on a local link connected within said sequence, generate an output signal to said concentrator network to cause said concentrator network to provide a connection to said port for signals on said link.” As argued above, and in the Prior Response (page 20), the cited references do not teach or suggest either “a monitor,” or a “scanning device.”

Further, the Examiner alleged, without basis, which detecting a dialed telephone number reads on generating “an output signal to said concentrator network to cause said concentrator network to provide a connection to said port.” (Office Action, page 24.) Indeed, the Examiner failed to provide any teaching or suggestion in the cited references concerning providing “a connection to said port.”

Moreover, at least for reasons stated above and in the Prior Response, Gliga does not teach or suggest the recitations of claim 41 including a “concentrator network.”

For least these reasons, the rejection of claim 41, and the claims depending therefrom, should be withdrawn.

D. Claim 48

Claim 48 was rejected over Weinstein and Gliga on grounds similar to those set forth for claims 46 and 47. Therefore, even though claims 46 and 47 and 48 differ in scope, claim 48 is patentable over the cited references at least for the reasons set forth above and in the Prior Response concerning claim 46.

E. Claim 53

Claim 53 was rejected over Weinstein and Gliga on grounds similar to those set forth for claim 1. Therefore, even though claims 1 and 53 differ in scope, claim 53 is patentable over the cited references at least for the reasons set forth above and in the Prior Response concerning claim 1.

F. Claim 56

Claim 56 was rejected over Weinstein and Gliga on grounds similar to those set forth for claims 27, 28, 29, and 30. Therefore, even though claims 56 and 27, 28, 29, and 30 differ in scope, claim 56 is patentable over the cited references at least for the reasons set forth above and in the Prior Response concerning claim 27.

IV. CONCLUSION

All rejections have been addressed. In view of the above, the presently pending claims are believed to be in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested and the Examiner is respectfully requested to pass this application to issue.

It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 18-0013, under order number 65632-0140. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

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